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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/255,968	02/23/1999	NANCY L. ANDERSON	P03735US0	9218

7590

07/15/2002

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DES MOINES, IA 50309

EXAMINER

REAGAN, JAMES A

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 07/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/255,968

Applicant(s)

ANDERSON ET AL.

Examiner

James A. Reagan

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 June 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-4, 6-11, and 23-31.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Continuation of 5. does NOT place the application in condition for allowance because: The arguments do not overcome the rejections of the last Office action (paper #4).

Advisory Action

Response to Amendment

1. Claims 1-4, 6-11, and 23-31 are currently pending.
2. Claims 5 and 12-22 have been cancelled (paper #3).
3. Claims 1, 3, 4, and 10 have been amended (paper #3).
4. Claims 23-31 have been added (paper #3).
5. Claims 1-4, 6-11, and 23-31 have been reviewed.
6. The rejections of claims 1-4, 6-11, and 23-31 are unchanged.

Response to Arguments

7. Applicant's arguments filed on 27 June 2002 have been considered but are not persuasive.
8. In the Remarks section, Applicant argues that the Examiner's interpretation of the Matyas invention is incorrect. Namely, Applicant states that the invention of Matyas *generally* (emphasis added) related to shopping and purchasing of goods and services over the Internet. The Examiner agrees, but also points out that Matyas anticipates the claimed invention when he discloses presenting questions to the customer at the point of sale (column 2, lines 42-44), and obtaining responses to the questions at the point of transaction (column 2, lines 45-47). Although the invention of Matyas is *generally* directed towards Internet shopping, Matyas clearly anticipates applications at the POS terminal in the store. In the obvious combination with Cadotte, the POS evaluation anticipates evaluation of

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an employee at the store. The rejection of claims 1, 23, and 31 are therefore proper and are maintained.

9. With regard to claims 2 and 27, Applicant argues that since Matyas is directed to an Internet shopping tool, it cannot anticipate being physically linked to an employee at the point of sale. As shown above, the invention of Matyas in combination with Cadotte is obvious with regard to presenting a questionnaire to a customer at the point of sale regarding employee behavior. The rejection of claims 2 and 27 are therefore proper and are maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **James A. Reagan** whose telephone number is **(703) 306-9131**. The examiner can normally be reached on Monday-Friday, 9:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **James Trammel** can be reached at (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 305-3900**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 305-7687	[Official communications; including After Final communications labeled "Box AF"]
(703) 308-1396	[Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.

JAR